

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

**FOX VALLEY LABORERS' HEALTH AND)
WELFARE FUND, THE FOX VALLEY)
LABORERS' PENSION FUND, and PAT)
SHALES, Administrator of the Funds,)**

Plaintiffs,

v.

**HUGH HENRY CONSTRUCTION INC.,)
an Illinois corporation, TRACEY)
BIESTERFELDT, and MICHAEL)
GALLAGHER, individuals,)**

Defendants.

Case No. 16-cv-7203

Honorable Judge Manish S. Shah

PLAINTIFFS' MOTION TO REINSTATE CASE AND ENTER AGREED JUDGMENT

Plaintiffs FOX VALLEY LABORERS' HEALTH AND WELFARE FUND ("Welfare Fund"), THE FOX VALLEY LABORERS' PENSION FUND ("Pension Fund") (collectively, "the Funds"), and PAT SHALES, administrator of the Funds, through their attorneys, Dowd, Bloch, Bennett, Cervone, Auerbach & Yokich, hereby respectfully move the Court for leave to reinstate this case and enter the parties' agreed judgment. In support of their motion, Plaintiffs state as follows:

1. This case was originally filed on July 15, 2016 (Complaint [Docket No. 1]. Defendants filed their amended answer on September 30, 2016 (Defendants' Amended Answer to Plaintiffs' Complaint and Affirmative Defenses [Docket No. 31]).

2. The parties entered into a written settlement agreement (attached as Exhibit A) that provided:

- (a) Plaintiffs would amend their complaint to add a third defendant (Michael Gallagher) and to update the description of their allegations based on facts developed since the lawsuit was originally filed (Ex. A at 3).
- (b) The parties would ask that the case be dismissed without prejudice and with leave to reinstate through August 31, 2010 (Ex. A at 3).
- (c) Defendants would pay off all delinquencies arising through December 31, 2016 through a specified payment schedule (Ex. A at 2).
- (d) Defendants would remain current on all other obligations to Plaintiffs (Ex. A at 4).
- (e) In the event of non-compliance with the settlement, Defendants would agree to entry of an Agreed Judgment against them (Ex. A at 5).

3. Pursuant to the settlement, Plaintiffs filed their Amended Complaint [Docket No. 56] with leave of court, and the court later dismissed the case without prejudice but with leave to reinstate [Docket Nos. 61 & 62].

4. As of the filing of this motion, Defendants have complied with the payment schedule for paying delinquencies arising through December 31, 2016. But Defendants have not remained current on their other obligations to Plaintiffs. Specifically, Defendants have provided monthly reports from February through June, 2017 (attached as Exhibits B through H), stating that they owe contributions for those months. But Defendants have made only a partial payment toward those contributions, as shown in the chart below:

Hugh Henry Contributions Due Based on Reports from 2017		
Month	Funds	Dues
January 2017 (Ex. B)	\$ -	\$ -
February 2017 (Ex. C)	\$ 1,689.60	\$ 111.84
March 2017 (Ex. D)	\$ 19,549.20	\$ 1,322.20
April 2017 (Ex. E)	\$ 23,007.60	\$ 1,590.72
May 2017 (Ex. F)	\$ 28,142.40	\$ 1,938.09
June 2017 (Ex. G)	\$ 38,570.43	\$ 2,629.25
July 2017 (Ex. H)	\$ 31,457.37	\$ 2,134.64
Webster Check No. 1113	\$ (3,168.00)	\$ -
Webster Check No. 1114	\$ -	\$ (223.20)
Hugh Henry Check No. 2914	\$ (45,432.66)	\$ (4,567.34)
Hugh Henry Check No. 2916	\$ (2,865.36)	\$ (2,134.64)
Total Principal Contributions	\$ 90,950.58	\$ 2,801.56

5. Plaintiffs have provided Defendants with notice of their default, but Defendants have failed to cure within the time allowed (attached as Exhibit I).

6. Plaintiffs now request the relief which Defendants agreed to in the settlement: that the case be reinstated and the Agreed Judgment be entered. A copy of the Agreed Judgment, signed by counsel for Defendants as a condition of settlement, is attached as Exhibit J.

WHEREFORE, the Plaintiffs therefore request that the Court reinstate the case for purposes of entry of the parties' Agreed Judgment, and that the Court enter the Agreed Judgment immediately after reinstatement.

Respectfully Submitted,

/s/ Josiah A. Groff

Josiah A. Groff

One of Plaintiffs' Attorneys

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